

LS-4116

Office Memorandum • UNITED STATES GOVERNMENT

TO : General Counsel

DATE: 20 April 1953

FROM : Director of Security

OGC HAS REVIEWED.

SUBJECT: Proposed Amendments to the Immigration and Nationality Act.

1. In view of the experience of this office with cases involving aliens of official interest to the CIA, the following amendments to the Immigration and Nationality Act will be of benefit to CIA in carrying out its mission wherein help is needed from non-citizens.

Insert

2. Section 203(a)1 of the Act provides for a 50% preference under the quota of each quota area and states that immigration visas will be made available to qualified persons "whose services are determined by the Attorney General to be needed urgently in the United States because of the high education, technical training, specialized experience, or exceptional ability of such immigrants and to be substantially beneficial prospectively to the national economy, cultural interest, or welfare of the United States." It is the opinion of this office that if the word "in" after the words "needed urgently" is changed to the word "by", this Section will be useful, not only as intended by Congress when the Act was first passed, but to CIA for those operational cases which do not warrant the use of Section 8. As we see it, the substitution of the word "by" for "in" will make it possible for the Agency to sponsor an alien under the preference who has specialized intelligence experience, bring the alien into the United States to obtain permanent residence status, and then send him abroad immediately to work for the Agency.

3. The second paragraph of Section 316(b) reads as follows: "Absence from the United States for a continuous period of one year or more during the period for which continuous residence is required for admission to citizenship (whether preceding or subsequent to the filing of the petition for naturalization) shall break the continuity for continuous residence except in the case of a person who has been physically present and residing in the United States, after being lawfully admitted for permanent residence, for an uninterrupted period of at least one year and who thereafter is employed by or under contract with the Government of the United States....." It is believed that this paragraph should be amended by deleting the words "for an uninterrupted period of at least one year" and substituting in lieu thereof

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the words "for periods totaling one year or more". If this amendment were adopted it would have the affect of changing 316(c) which deals with CIA employes so that 316(c) would be in consonance with the amendment proposed. It is believed that this would be helpful to CIA contract employes and as a consequence to the Agency because it would make it possible for the Agency to make some use of an experienced agent for at least part of the year which he must spend in the United States in order to petition for naturalization. As the Act now reads, if an agent who has worked faithfully for the Agency overseas returns to comply with the requirement of one year uninterrupted physical presence in the United States and his services are needed for a short temporary period outside the United States, he would either lose his continuous residence for naturalization purposes thus causing morale problems, or his services would be lost to the Agency. Considering the change on an overall basis, it is true that amending 316(b) would benefit aliens who work for other Government departments or for business firms, but it would not detract from the historical requirement of the Congress that a man be physically within the United States for at least one year before becoming eligible to petition for citizenship and it would not be inconsistent with 316(a) of the Act which requires five years residence and requires physical presence for "periods totaling at least half of that time".

4. If it is not possible to amend 316(b) as suggested above, it is suggested that amendment be made to 316(c) to accomplish the same purpose for CIA alone. Such an amendment might possibly read "in the case of a person employed by or under contract with CIA the requirement in subsection (b) of an uninterrupted period of at least one year of physical presence and residence in the United States need not be complied with by such person. However, physical presence in the United States for periods totaling at least one year must be shown by such person prior to filing a petition for naturalization."

cut. 5. It is suggested that 316(b) be amended by inserting at the end of such Section the following: "Except that in the case of a person employed by or under contract with CIA, the Director of Central Intelligence or his designate on behalf of such person may establish to the satisfaction of the Attorney General at any time prior to the filing of a petition for naturalization that such absence in such employment whether before or after the effective date of this Act was on behalf of such Government; and....."


6. This amendment is sought to take care of those situations where aliens have been doing valuable work for the Agency or may in the future do valuable work for the Agency and the security of the operation requires a deep cover so that prior application for the benefits of the Section would not be practicable. We have had cases recently where aliens have gone abroad to aid in the national intelligence mission and had not been in the United

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States for sufficient time to make them eligible for the benefits of 307(b) of the Nationality Act of 1940 and whose time spent abroad totaled more than one year at the time the Immigration and Nationality Act was effected. In all fairness to the agent and to lessen morale problems in dealing with the agents, it is believed that this amendment will be very beneficial, especially since the alien agreed to help the United States intelligence mission at a personal sacrifice to himself.

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